

DOCKET NO.: 218108US2PCT



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:

Hideto AIKAWA, et al.

SERIAL NO: 10/069,516

GROUP: 2637

FILED: March 4, 2002

EXAMINER: J. M. MEEK

FOR: METHOD OF AND DEVICE FOR CORRECTING A TIMING

LETTER

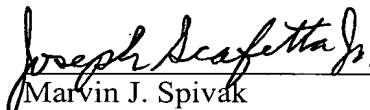
Mail Stop DD
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Submitted herewith is an European Office Action for the Examiner's consideration. The reference(s) cited therein have been previously filed on March 4, 2002 and February 27, 2003.

Respectfully Submitted,

OBLON, SPIVAK, McCLELLAND,
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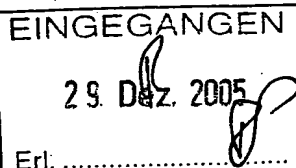
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Tel.: ~~2011~~

2399 2473

Date

28-12-2005

Reference
PMDA-00033 (CK)

Application No./Patent No.
00940929.3 - 2411

Applicant/Proprietor
MITSUBISHI DENKI KABUSHIKI KAISHA

Summons to attend oral proceedings pursuant to Rule 71(1) EPC

You are hereby summoned to attend oral proceedings arranged in connection with the above-mentioned European patent application.

The matters to be discussed are set out in the communication accompanying this summons (EPO Form 2906).

The oral proceedings, which will not be public, will take place before the examining division

on 05.04.06 at 09.00 hrs at the EPO,
PschorrHöfe, Bayerstr. 34, D-80335 München

} not. / ss (nw. 6/3/06)

No changes to the date of the oral proceedings can be made, except on serious grounds (see OJ EPO 10/2000, 456).

If you do not appear as summoned, the oral proceedings may continue without you (R. 71(2) EPC). Your attention is drawn to Rule 2 EPC, regarding the language of the oral proceedings, and to the OJ EPO 9/1991, 489, concerning the filing of authorisations for company employees and lawyers acting as representatives before the EPO.

The final date for making written submissions and/or amendments (Rule 71a EPC), is 06.03.06.

The actual room number as well as the waiting room numbers will be given to you by the porter in the foyer at the above EPO address. Parking is available free of charge in the underground car park. However, this applies only in the case of accessing the car park via the entrance "Zollstrasse".

1st Examiner:
Ricciardi M

2nd Member:
Meiser J

Chairman:
Bauer F

For the Examining Division

Annexes:
Confirmation of receipt (Form 2936)
Communication (EPO Form 2906)



**Bescheld/Protokoll (Anlage)**

Datum
Date 28.12.2005
Date

Communication/Minutes (Annex)

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Notification/Procès-verbal (Annexe)

Anmelde-Nr.:
Application No.: 00 940 929.3
Demande n°:

The examination is being carried out on the **following application documents**:

Description, Pages

1-4, 7-17, 19-36 as originally filed
5, 5a, 6, 18 received on 24.03.2004 with letter of 23.03.2004

Claims, Numbers

2-15, 17, 18 received on 24.03.2004 with letter of 23.03.2004
1, 16 received on 30.12.2004 with letter of 29.12.2004

Drawings, Sheets

1/4-4/4 as originally filed

Reference is made to the following documents; the numbering will be adhered to in the rest of the procedure:

D3: EP-A-0 673 130 (NIPPON ELECTRIC CO) 20 September 1995 *Filed 2/27/03*
D4: EP-A2-0 877 493 (NIPPON ELECTRIC CO) 11 November 1998 *3/04/02*

I. Objection under Art. 56 EPC (inventive step)

1. In his letter of reply the representative insists on the following two facts:
 - 1.1 neither D1 nor D2 disclose an external reference timing received from a base station (page 2 last sentence of the first paragraph and page 4 first sentence of the second paragraph)
 - 1.2 there is no relationship between phase and timing (page 2 first sentence of the second paragraph)
2. Those two arguments are thoroughly discussed in the following paragraphs.
 - 2.1 Although neither D1 nor D2 discloses an external reference timing, it is submitted that D3 does (see abstract and figures 4 and 5). Moreover D3 also discloses the differences between D1 and the application (differences were expressed at point I.3 of the letter of 24 November 2003), i.e. a phase difference calculating unit and a timing correcting unit (see for instance last sentence of abstract), thus it can replace D2 in the inventive step argumentation whenever an external timing is required. For



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Anmelde-Nr.:
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Demande n°:

the same reasons expressed in the letter of 24 November 2003, the skilled person would have definitely combined the disclosure of D3 with that of D1, especially in light of the foreseeable advantages, thus coming up with a synchronisation scheme among a base station and a mobile station in which the timing reference is provided from the base station. Thus, claims 1 and 16 cannot be considered inventive.

- 2.2 Regarding the alleged difference between phase and timing, it is submitted that a phase difference in D1 allows the alignment of a system time counter (see paragraph 31). The applicant himself states in claim 1 that "a phase difference unit compares a reference timing with the optimum path timing". This objection as per point 1.2 cannot thus be deemed to hold in this case. Phase and timing are two different concepts when it comes to the physical description of a signal, but are strongly related (by the propagation velocity, or frequency) when it comes to the comparison of two (or more) signals, as it is here the case.
3. It is here repeated that the inclusion of the additional technical features of claims 2 and 17 into the independent claims would render the claimed subject-matter allowable. In particular, none of the prior art cites a three-state optimum path selecting unit whereby in a first status the optimum path is selected from among the path candidates; in a second status the optimum path might be updated according to an update condition; and in a third status the optimum path is held. D4 cites a four state path classification scheme (col 6 lines 11-53).
4. It is anyway required to change the wording of the features contained in claims 2-15, currently expressed in functional form, to a more proper form for an apparatus claim.
5. Since the representative appears not to be satisfied with the solution exposed at point 3 of the present communication, oral proceedings according to Article 116 EPC as requested by the applicant appear to be the most economic solution to speed up the procedure. Therefore the above identified issues will be dealt with during this session of oral proceedings, which, in absence of substantial proofs of inventive activity, will lead to the **refusal of the application** in accordance with the provisions of the Article 97(1) EPC. Following the provisions of Rule 71(1) EPC, the attention of the applicant is drawn to the provisions of Rule 71(2) EPC.

**Bescheid/Protokoll (Anlage)**

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Date 28.12.2005
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Communication/Minutes (Annex)

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Notification/Procès-verbal (Annexe)

Anmelde-Nr.:
Application No.: 00 940 929.3
Demande n°:

F. Bauer

J. Meiser

M. Ricciardi